



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

KIN/151505

PRELIMINARY RECITALS

Pursuant to a petition filed August 19, 2013, under Wis. Stat. § 48.57(3m)(f), and Wis. Admin. Code § DCF 58.08(2)(b), to review a decision by the Kinship-DCF in regard to Kinship Care, a hearing was held on September 09, 2013, at Racine, Wisconsin.

The issue for determination is whether the Racine County Human Service Department (the agency) correctly terminated Petitioner's kinship care benefits effective August 6, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Children and Families
201 East Washington Avenue
Madison, Wisconsin 53703

By: Brittany Sutton, Kinship Care Coordinator
Kinship-DCF

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Racine County.
2. Petitioner's adult grandson, [REDACTED], is a convicted felon. He moved in with Petitioner on July 31, 2013. (Testimony of Petitioner)

3. Petitioner did not notify the agency that [REDACTED] moved in with her. The agency did not learn about this until they checked CCAP on August 6, 2013. (Testimony of Ms. Sutton; Exhibit 2, pg. 11 – Report of Contact Sheet)
4. On August 6, 2013, the agency sent Petitioner a notice indicating that the kinship care benefits she was receiving for DM would be ending effective August 6, 2008, because she did not notify the agency that her son, [REDACTED] had been released from prison and returned to her home. (Exhibit 2, pg. 23)
5. [REDACTED] subsequently went to jail on a probation hold sometime in August 2013 and has remained in custody since that time. (Testimony of Petitioner)
6. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on August 19, 2013. (Exhibit 1)

DISCUSSION

The Kinship Care benefit is a public assistance payment of \$220 per month per child paid to a qualified relative who bears no legal responsibility to support the child. In Wisconsin, this benefit replaces the former Non-Legally Responsible Relative (NLRR) Aid to Families with Dependent Children (AFDC) payment. To be eligible for the payments, the relative must meet all of the conditions set forth in Wis. Stat. §§48.57(3m)(am)(1-5) or 48.57(3n)(am)(1-6). Subsection (3m) concerns Children in Need of Protection or Services (CHIPS) and subsection (3n) concerns guardianship cases.

In this case Petitioner does not yet have guardianship, so this case turns on whether Petitioner meets with the eligibility criteria set forth under subsection 3m.

That Kinship Care statute requires the agency to assess whether the placement is necessary, whether it is in the best interests of the child, and whether an adult in the home has any arrests or convictions that could adversely affect the child. §48.57(3m)2(am), Stats.

The Department of Children and Families has fleshed out the statutory requirements necessary to become a kinship care recipient in *Wis. Admin. Code* §DCF 58.04:

DCF 58.04 Requirements for applicants and kinship care and long-term kinship care relatives.

...

(2) CRIMINAL BACKGROUND CHECK. (a) 1. An applicant for kinship care or a kinship care relative or long-term kinship care relative shall provide information sufficient for the agency to conduct, under s. 48.57 (3p), Stats., a criminal background check on the applicant or kinship care or long-term kinship care relative, any other adult resident of the applicant's or kinship care or long-term kinship care relative's home and any employee or prospective employee of the applicant or kinship care or long-term kinship care relative.

2. The applicant or kinship care or long-term kinship care relative shall also attest, in writing, that neither he nor she, nor any adult resident or prospective adult resident of his or her home nor any employee or prospective employee has any history of contact with a child protective services agency or arrests or convictions that could adversely affect the child or the applicant's or kinship care or long-term kinship care relative's ability to care for the child.

(b) A kinship care or long-term kinship care relative shall notify the agency of the intent of a person to become an adult resident of the kinship care or long-term kinship care relative's home when that intent becomes known, if that information is

available, or within 2 working days after that person's assumption of residence in the home if the intent is not known in advance.

...

Emphasis added. Wis. Admin. Code, § DCF 58.04(2)

In addition, kinship care relatives are required to co-operate with application and review process by notifying, "the agency whenever a person becomes or ceases to be an adult resident of the kinship care or long-term kinship care relative's home or the kinship care or long-term kinship care relative hires or proposes to hire an employee." *Wis. Admin. Code* §DCF 58.04(3)(c)

It is undisputed that Petitioner's adult grandson, [REDACTED], moved in with Petitioner on or about July 31, 2013. Petitioner did not give the agency prior notice that [REDACTED] was moving in with her and even if it came as a surprise to Petitioner, she did not report [REDACTED] moving in with her, within 2 business days of July 31, 2013. (August 2, 2013 was a Friday.)

Because Petitioner violated the provisions of *Wis. Admin. Code* §DCF 58.04(2) and (3), the agency correctly terminated Petitioner's kinship care payment on August 6, 2013.

Petitioner indicated that since receiving the termination letter, [REDACTED] has returned to custody and is no longer in her residence. If that is the case, Petitioner can reapply for benefits.

CONCLUSIONS OF LAW

The agency correctly terminated Petitioner's kinship care benefits, effective August 6, 2013.

THEREFORE, it is

ORDERED

That the Petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Children and Families. After filing the appeal with the appropriate court, it must be served on the Secretary of that

Department, either personally or by certified mail. The address of the Department is: 201 East Washington Avenue, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 1st day of November, 2013.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 1, 2013.

Kinship-DCF

DCF - Kinship Care